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FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

SEP 18 2008

JAMES R. LARSEN, CLERK
YAKIMA, WASHINGTON DEPUTY

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JACQUELINE GONZALEZ,

Defendant.

No. 08-CR-6043-FVS

Plea Agreement

Plaintiff, United States of America, by and through JAMES A. McDEVITT, United States Attorney for the Eastern District of Washington, and SHAWN N. ANDERSON, Assistant United States Attorney for the Eastern District of Washington, and Defendant JACQUELINE GONZALEZ and the Defendant's counsel, DIANE E. HEHIR, agree to the following Plea Agreement:

1. Guilty Plea and Maximum Statutory Penalties:

The Defendant, Jacqueline Gonzalez, agrees to plead guilty to Count 23 of the Indictment filed on June 17, 2008, charging the Defendant with Aggravated Identity Theft, in violation of 18 U.S.C. § 1028A(a)(1). The Defendant, Jacqueline Gonzalez, understands that this crime is a Class E felony and that the statutory penalty for this charge is two (2) years imprisonment; a fine not to exceed \$250,000; a term of supervised release of

1 not more than 1 year; restitution; and a \$100 special penalty
2 assessment.

3 The Defendant, Jacqueline Gonzalez, understands that a
4 violation of a condition of supervised release carries an
5 additional penalty of re-imprisonment for all or part of the term
6 of supervised release without credit for time previously served
7 on post-release supervision.

8 2. The Court is Not a Party to the Agreement:

9 The Court is not a party to this Plea Agreement and may
10 accept or reject this Plea Agreement. Sentencing is a matter
11 that is solely within the discretion of the Court. The Defendant
12 understands that the Court is under no obligation to accept any
13 recommendations made by the United States and/or by the
14 Defendant; that the Court will obtain an independent report and
15 sentencing recommendation from the U.S. Probation Office; and
16 that the Court may, in its discretion, impose any sentence it
17 deems appropriate up to the statutory maximums stated in this
18 Plea Agreement.

19 The Defendant acknowledges that no promises of any type have
20 been made to the Defendant with respect to the sentence the Court
21 will impose in this matter. The Defendant understands that the
22 Court is required to consider the applicable sentencing guideline
23 range, but may depart upward or downward under the appropriate
24 circumstances.

25 The Defendant also understands that should the sentencing
26 judge decide not to accept any of the parties' recommendations,
27 that decision is not a basis for withdrawing from this Plea
28 Agreement or a basis for withdrawing this plea of guilty.

1 3. Waiver of Constitutional Rights:

2 The Defendant, Jacqueline Gonzalez, understands that by
3 entering this plea of guilty the Defendant is knowingly and
4 voluntarily waiving certain constitutional rights, including:

- 5 (a) The right to a jury trial;
6 (b) The right to see, hear and question the witnesses;
7 (c) The right to remain silent at trial;
8 (d) The right to testify at trial; and
9 (e) The right to compel witnesses to testify.

10 While the Defendant is waiving certain constitutional
11 rights, the Defendant understands the Defendant retains the right
12 to be assisted through the sentencing and any direct appeal of
13 the conviction and sentence by an attorney, who will be appointed
14 at no cost if the Defendant cannot afford to hire an attorney.
15 The Defendant also acknowledges that any pretrial motions
16 currently pending before the Court are waived.

17 4. Elements of the Offense:

18 The United States and the Defendant agree that in order to
19 convict the Defendant of Aggravated Identity Theft, in violation
20 of 18 U.S.C. § 1028A(a)(1), the United States would have to prove
21 beyond a reasonable doubt the following elements:

- 22 (a) First, on or about August 1, 2004, through and
23 including August 17, 2007, the Defendant,
24 Jacqueline Gonzalez, knowingly possessed or used,
25 without lawful authority, a means of
26 identification of another actual person; and
27 (b) Second, the means of identification was possessed
28 or used during and in relation to a felony

1 enumerated in 18 U.S.C. § 1028A(c) or 18 U.S.C. §
2 2332b(g)(5)(B), to-wit: Theft of Government
3 Funds, in violation of 18 U.S.C. § 641 or Social
4 Security Fraud, in violation of 42 U.S.C. §
5 408(a)(7)(B).

6 5. Factual Basis and Statement of Facts:

7 The United States and the Defendant stipulate and agree that
8 the following facts are accurate; that the United States could
9 prove these facts beyond a reasonable doubt at trial; and these
10 facts constitute an adequate factual basis for Jacqueline
11 Gonzalez's guilty plea.

12 On April 4, 2007, the Washington Department of Social and
13 Health Services (DSHS) received an anonymous tip that Jacqueline
14 GONZALEZ, the Defendant herein, was working in a Pasco nursing
15 home under the name of Mirna Solis and not reporting correct
16 information to DSHS. A subsequent check of DSHS files indicated
17 that GONZALEZ had been known to DSHS since January 1996 as a
18 recipient of financial, food, medical, and child care assistance.
19 She has four children. Until February 2003, GONZALEZ alleged
20 that she was working part time for Del Sol, a janitorial service
21 in the Pasco area. GONZALEZ thereafter claimed to be unemployed.
22 DSHS caseworkers repeatedly noted that her lifestyle appeared
23 beyond her apparent means.

24 Upon further investigation, GONZALEZ was discovered to have
25 a driver's license under her correct name and an identification
26 card under the name of Mirna Solis. The alleged dates of birth
27 differ. Both documents cited a similar home address in Pasco.
28 GONZALEZ used different Social Security numbers for work at Del

1 Sol and the nursing home, Avalon Health & Rehabilitation
2 (Avalon). An employee at Avalon noted that the person known to
3 her as Solis liked to be called "Jackie." The employee also
4 positively identified the defendant from a DOL photo.

5 Wage and employment records were obtained from the parent
6 company of Avalon. Those records revealed that GONZALEZ was
7 employed at the nursing home from November 28, 2000, through July
8 7, 2007. The defendant reported herself to be Mirna Solis,
9 Social Security number XXX-XX-3160. She also claimed to be a
10 United States citizen. GONZALEZ was still working for Avalon as
11 of January 2008. Wage records from Del Sol reveal that GONZALEZ
12 was employed there from July 15, 2001, through February 4, 2003.
13 She worked under the Social Security number XXX-XX-9023.

14 According to a credit report, GONZALEZ also used Social Security
15 number XXX-XX-9025 to apply for credit. Additional wage records
16 obtained for the father of the defendant's youngest child reveal
17 income that the defendant also failed to report.

18 Further investigation of records maintained by the Social
19 Security Administration (SSA) revealed that Social Security
20 number XXX-XX-3160 was issued to Mirna Soliz (also spelled
21 Solis), who was born on August 17, 1972 in California. Social
22 Security numbers XXX-XX-9023 and XXX-XX-9025 were not issued to
23 Jacqueline GONZALEZ. In fact, SSA has no record of any Social
24 Security number ever being issued to GONZALEZ. During 1997 and
25 1999, the Defendant applied for two replacement Social Security
26 cards for XXX-XX-3160. The application forms indicate the
27 Defendant used the victim's correct date and place of birth, in
28 addition to the correct names of the victim's parents.

1 GONZALEZ was interviewed on September 12, 2007. After
2 waiving Miranda, she acknowledged signing various DSHS documents
3 used to obtain assistance. She also admitted that she was
4 working for Avalon under the identity of Mirna Solis. GONZALEZ
5 claimed that Solis was a friend of hers who allowed GONZALEZ to
6 use her name for work. GONZALEZ also admitted that she is not a
7 United States citizen and that she is in the United States
8 illegally.

9 Investigators later contacted Solis in California. Solis,
10 now named Myrna Mora, claimed to have never seen GONZALEZ or
11 otherwise know her. Mora had previously reported to local police
12 that she had been a victim of identity theft. In early 2006,
13 Mora received a bill from T-Mobil that also advised her that
14 someone from Washington was using her Social Security number to
15 purchase an account.

16 The Defendant's conduct created a financial overpayment of
17 \$25,146.00 (\$13,830.30 in federal funds), a food assistance
18 overpayment of \$19,988.00, and a child care overpayment of
19 \$639.00 for a total overpayment of \$45,773.

20 This statement of facts does not preclude either party from
21 presenting and arguing, for sentencing purposes, additional facts
22 which are relevant to the guideline computation or sentencing,
23 unless otherwise prohibited in this agreement.

24 6. Recovery of Assets:

25 The Defendant agrees to fully cooperate in the
26 identification and recovery of assets to pay restitution and
27 further agrees that if any proceeds are in the Defendant's
28

1 possession or control, the Defendant will immediately relinquish
2 them to the United States.

3 7. Waiver of Inadmissibility of Statements:

4 The Defendant agrees to waive the inadmissibility of
5 statements made in the course of plea discussions with the United
6 States, pursuant to Fed. R. Crim. P. 11(f). This waiver shall
7 apply if the Defendant withdraws this guilty plea or breaches
8 this Plea Agreement. The Defendant acknowledges that any
9 statements made by the Defendant to law enforcement agents in the
10 course of plea discussions in this case would be admissible
11 against the Defendant in the United States's case-in-chief if the
12 Defendant were to withdraw or breach this Plea Agreement.

13 8. The United States Agrees:

14 (a.) Dismissal(s):

15 At the time of sentencing, the United States agrees to move
16 to dismiss Count(s) 1-22 of the Indictment, which charge(s) the
17 Defendant with Theft of Government Funds, in violation of 18
18 U.S.C. § 641, and Social Security Fraud, in violation of 42
19 U.S.C. § 408(a)(7)(B).

20 (b.) Not to File Additional Charges:

21 The United States Attorney's Office for the Eastern District
22 of Washington agrees not to bring any additional charges against
23 the Defendant based upon information in its possession at the
24 time of this Plea Agreement and arising out of Defendant's
25 conduct involving illegal activity charged in this Indictment,
26 unless the Defendant breaches this Plea Agreement any time before
27 or after sentencing.
28

1 9. United States Sentencing Guideline Calculations:

2 The Defendant understands and acknowledges that the United
3 States Sentencing Guidelines (hereinafter "U.S.S.G.") are
4 applicable to this case and that the Court will determine the
5 Defendant's applicable sentencing guideline range at the time of
6 sentencing.

7 (a) Base Offense Level:

8 The United States and the Defendant agree that there is no
9 applicable offense level, but the Defendant is subject to a
10 mandatory sentence of two (2) years pursuant to 18 U.S.C. §
11 1028A(a)(1). U.S.S.G. §2B1.6(a).

12 (b) Acceptance of Responsibility:

13 The United States and the defendant agree that the
14 provisions for acceptance of responsibility are not applicable.

15 (c) Criminal History:

16 The United States and the Defendant agree that no criminal
17 history computation is necessary, as the sentence is subject to a
18 mandatory minimum period of incarceration, regardless of the
19 Defendant's criminal history.

20 Furthermore, the Defendant agrees to pay the \$100 mandatory
21 special penalty assessment to the Clerk of Court for the Eastern
22 District of Washington, at or before sentencing, and shall
23 provide a receipt from the Clerk to the United States before
24 sentencing as proof of this payment, as a condition to this
25 recommendation by the United States.

26 10. Departures and Variances:

27 There are no aggravating or mitigating factors with respect
28 to the correct calculation of the Sentencing Guidelines. The

1 United States and the Defendant agree that they will not seek
2 either an upward or a downward departure or variance from the
3 applicable Guidelines.

4 11. Incarceration:

5 (a.) Length of Imprisonment:

6 The United States and the Defendant agree to recommend that
7 the Court impose a two (2)-year term of imprisonment, the
8 statutory minimum for this offense.


9 (b.) Bureau of Prison Recommendations:

10 The United States Attorney's Office for the Eastern District
11 of Washington acknowledges that the Defendant intends to request
12 the Court to write a letter to the United States Bureau of
13 Prisons recommending that the Defendant be allowed to serve the
14 sentence at a specific institution. The Defendant understands
15 that any decision concerning the Defendant's place of
16 incarceration is within the exclusive province of the Bureau of
17 Prisons.

18 12. Criminal Fine:

19 The United States and the Defendant agree not to recommend
20 the imposition of a criminal fine.

21 13. Supervised Release:

22 The United States and the Defendant agree to recommend that
23 the Court impose a ^{16 One (1) FVS OK} ~~three (3)~~ year term of supervised release to 
24 include the following special conditions, in addition to the
25 standard conditions of supervised release:

26 (1) that the Defendant provide financial information,
27 provide copies of Federal income tax returns and allow credit
28 checks, at the direction of the Probation Officer;

1 (2) that the Defendant shall disclose all assets and
2 liabilities to the Probation Officer and shall not transfer,
3 sell, give away, or otherwise convey or secret any asset, without
4 the advance approval of the Probation Officer; and

5 (3) that the Defendant be prohibited from incurring any new
6 debt, opening new lines of credit, or enter any financial
7 contracts or obligations without the prior approval of the
8 Probation Officer; and

9 (4) that the Defendant participate and complete financial
10 counseling and life skills programs at the direction of the
11 Probation Officer.

12 14. Restitution:

13 The United States and the Defendant hereby stipulate and
14 agree that, pursuant to 18 U.S.C. §§ 3663, 3663A and 3664, the
15 Court should order restitution to the United States and the State
16 of Washington in amounts to be determined by the United States
17 Probation Office.

18 Restitution to the victims shall be paid in monthly
19 installments for a term of years as recommended by U.S.
20 Probation. The Defendant acknowledges and agrees that the terms
21 of repayment may be modified upon review of the Defendants future
22 financial condition.

23 15. Mandatory Special Penalty Assessment:

24 The Defendant agrees to pay the \$100 mandatory special
25 penalty assessment to the Clerk of Court for the Eastern District
26 of Washington, at or before sentencing, pursuant to 18 U.S.C. §
27 3013 and shall provide a receipt from the Clerk to the United
28 States before sentencing as proof of this payment.

1
2 16. Payments While Incarcerated:

3 If the Defendant lacks the financial resources to pay the
4 monetary obligations imposed by the Court, the Defendant agrees
5 to earn the money to pay toward these obligations by
6 participating in the Bureau of Prisons' Inmate Financial
7 Responsibility Program.

8 17. Additional Violations of Law Can Void Plea Agreement:

9 The Defendant and the United States agree that the United
10 States may at its option and upon written notice to the
11 Defendant, withdraw from this Plea Agreement or modify its
12 recommendation for sentence if, prior to the imposition of
13 sentence, the Defendant is charged or convicted of any criminal
14 offense whatsoever or if the Defendant tests positive for any
15 controlled substance.

16 18. Appeal Rights:

17 Defendant understands that she has a limited right to appeal
18 or challenge the conviction and sentence imposed by the Court.
19 Defendant hereby expressly waives her right to appeal her
20 conviction and the sentence the Court imposes, including any
21 restitution order. Defendant further expressly waives her right
22 to file any post-conviction motion attacking her conviction and
23 sentence, including a motion pursuant to 28 U.S.C. § 2255, except
24 one based upon ineffective assistance of counsel based on
25 information not now known by Defendant and which, in the exercise
26 of due diligence, could not be known by Defendant by the time the
27 Court imposes the sentence.

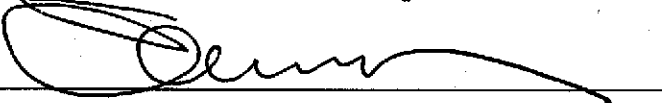
1 19. Integration Clause:

2 The United States and the Defendant acknowledge that this
3 document constitutes the entire Plea Agreement between the United
4 States and the Defendant, and no other promises, agreements, or
5 conditions exist between the United States and the Defendant
6 concerning the resolution of the case. This Plea Agreement is
7 binding only upon the United States Attorney's Office for the
8 Eastern District of Washington, and cannot bind other federal,
9 state or local authorities. The United States and the Defendant
10 agree that this agreement cannot be modified except in a writing
11 that is signed by the United States and the Defendant.

12 Approvals and Signatures

13 Agreed and submitted on behalf of the United States
14 Attorney's Office for
15 the Eastern District of Washington.

16 JAMES A. McDEVITT
17 United States Attorney

18 

19 SHAWN N. ANDERSON
20 Assistant U.S. Attorney

21 9/15/08
22 Date

23 I have read this Plea Agreement and have carefully reviewed
24 and discussed every part of the agreement with my attorney. I
25 understand and voluntarily enter into this Plea Agreement.
26 Furthermore, I have consulted with my attorney about my rights, I
27 understand those rights, and I am satisfied with the
28 representation of my attorney in this case. No other promises or
inducements have been made to me, other than those contained in
this Plea Agreement and no one has threatened or forced me in any

1 way to enter into this Plea Agreement. I am agreeing to plead
2 guilty because I am guilty.

3
4 Jacqueline Gonzalez

5 Jacqueline Gonzalez
Defendant

9-16-08
Date

6 I have read the Plea Agreement and have discussed the
7 contents of the agreement with my client. The Plea Agreement
8 accurately and completely sets forth the entirety of the
9 agreement between the parties. I concur in my client's decision
10 to plead guilty as set forth in the Plea Agreement. There is no
11 legal reason why the Court should not accept the Defendant's plea
12 of guilty.

13 Diane E. Hehir

14 Diane E. Hehir
15 Attorney for the Defendant

9-18-08
Date

16 Reviewed and approved:

17
18 Jane Kirk

19 JANE KIRK
20 Supervising Assistant U.S. Attorney

September 15, 2008
Date

21 I hereby certify that I have read and translated the entire
22 foregoing document to the Defendant in a language with which he
23 is conversant. If questions have arisen, I have notified the
24 Defendant's counsel of the questions and have not offered nor
25 given legal advice nor personal opinions.

26 L. Faviala Gutierrez

27
28 Interpreter

9/16/08
Date